

RECEIVED

MAR 15 2002

Technology Center 2100

AF  
2164

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of: ]

STEFAN J. HALBLANDER ]

Serial No: 09/043,574 ]

] Group Art Unit: 2164

Filed: March 26, 1998 ]

] Examiner: H. Kazimi

For: METHOD FOR THE  
SITUATION-DEPENDENT

] Attorney Docket: 98037

ARRANGEMENT AND/OR ACTIVATION ]  
OF RESOURCES ]

#27  
3/18/02

Appeal No: \_\_\_\_\_

REPLY BRIEF

Honorable Assistant Commissioner for Patents  
Washington, DC 20231

RECEIVED

MAR 15 2002

Technology Center 2600

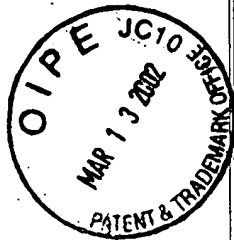
Sir:

The following remarks are submitted in response to the  
Examiner's Answer mailed January 15, 2002.

At col. 11, lines 3-5, Parad defines an event as  
follows:

"An event is some action that changes the resource  
amount at a specific point in time called TIME-1 303."

Thus, according to Parad, an event *changes the amount of*  
*a resource*. According to the invention, however, the word  
"event" means *any procedure by which a resource can be*  
*activated*. When Parad makes reference to events, these



always involve changes in resource amounts, which is not the case in the subject matter of the application.

By properly characterizing the term "event" according to the invention, it can be seen that the Parad reference does not anticipate the claimed invention.

According to the Examiner's Answer, the recitation of claim 21 "comprising an ongoing optimization-simulation for simulating an optimal deployment of said resources" is known from Parad (col. 5, lines 5-39, and col. 9, lines 34 thru col. 10, line 32). In the cited section of Parad, the continuously performed procedure is described in detail. This procedure relates, according to col. 32, lines 42-44, to "a method for continuous resource management of events for a multitude of heterogeneous events", i.e. managing "actions that change the amount of resources " (col. 11, lines 3-5). Nowhere in col. 5, lines 5-39; col. 9, lines 34 thru col. 10, line 32 of Parad is there any reference to the presently claimed concept of "ongoing optimization-simulation for simulating an optimal deployment of resources".

According to the Examiner's Answer, the recitation "at the occurrence of an event, determining a subset of resources relevant to said event and determining the status of each of the resources" should be considered known from Parad at col. 4, lines 18-66, and col. 9, line 34 thru col. 10, line 32.

In column 4, lines 18-66, software components are primarily described which relate to resources and are used for the execution of the procedure according to Parad.

The only statement in column 4, lines 18-66, which relates to the "occurrence of an event", is in lines 33-34 and is worded "initializing with independent demand and current conditions". This "initializing" relates, however, to the "resource engines" which according to column 7, lines 30-34 involve "prospective scheduling parts". Thus, Parad teaches, as can be also seen from the details in col. 9, line 34 thru col. 10, line 32, the interaction of software components which contain plans driven by "demand and current" conditions. These measures differ from the recitation of claim 21, "upon the occurrence of an event checking the set of resources that is relevant to the event and determining the suitability and availability of each resource in the subset."

Further, the Examiner's Answer argues that the recitation "on an ongoing basis, taking into account all pending jobs and job priorities and job criteria and resources" is known from Parad at col. 5, lines 5-39 and col. 9, line 34 thru col. 10, line 32. The tasks in col. 5, lines 5-39 can only be understood in combination with the specification at col. 4, line 67 through col 5. line 4. It is

there stated that the procedural steps contained in col. 5, lines 5-39 have the object of continuous adjustment of resource schedules to changing requirements, conditions, and restrictions. The details in col. 5, lines 23-29, relate to a global overview of decision alternatives. In col. 9, line 34 thru col. 10, line 32 of Parad, the components are described for the continuous, integrated resource management. While not literally described, it may be possible from the detailed presentation as contained at col. 9, line 34 thru col. 10, line 32, to find a disclosure comparable to "on an ongoing basis taking into account all pending jobs and job priorities and job criteria" of present claim 21. However, claim 21 also recites taking into account the availability of each resource in the selected resource subset. There is no disclosure or suggestion of this recitation in col. 5, line 5-35, and col. 9, line 34 thru col. 10, line 32 of Parad

The recitation in claim 21 "first determining the optimal job sequence for each resource, and subsequently either: selecting and deploying an available resource from the subset for the best possible job at the time of availability of said resource, or selecting and redeploying a resource previously deployed on a different job or a job of higher priority" cannot be found in the disclosure of Parad at col. 5, line 35 or col. 9, lines 34 thru col. 10, line 32

which are cited in the Examiner's Answer in reference to most of the recitations of claim 21. It is also worth noting that the Examiner's Answer did not allege as known or anticipated, nor even discussed the essential recitation of claim 21, the ending of a job by means of a resource and the beginning of a new job with a higher priority by the same resource in order to achieve greater optimization.

According to the Examiner's Answer, the recitation "providing electronic description of jobs to be performed including a priority for each job and at least one criterion for executing each job" is known from Parad at col. 4, lines 18-66, col. 5, lines 40-58, and col. 9, line 34 thru col. 10, line 32. In the text passages cited by the Examiner's Answer, specifications concerning the characteristics of resources and the heuristic methods for establishing priorities may be mentioned, but there is no indication of a list in which all jobs including their priorities are already contained. Moreover, the Examiner's Answer does not establish that the recitation of claim 31, "on an ongoing basis selecting and activating resources based on criterias..." is known. The essential recitations of claim 32 are thus not known from Parad either.

It has already been shown above that the recitations "conducting an optimization simulation" and "at the

occurrence of an event, determining a subset of resources relevant to the event and determining the status of the resources in the subset", which are also contained in claim 32, are not known from Parad. And one essential recitation of claim 33, which relates to the ongoing determination of an optimal job sequence on the basis of the individually available information about pending jobs, their priorities and criteria, as well as the corresponding resources, and only selecting an available resource if there is no higher optimization requiring the deployment of an already activated resource with a new job of higher priority is not known from Parad.

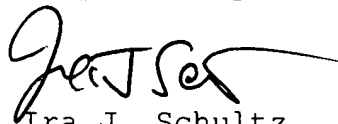
The Examiner's Answer cites extensive text passages from Parad and contends, that the recitations of claims 21, 32, and 33 are known; Appellant contends that to the contrary, the essential recitations of claims 21, 32, and 33 are not known from these passages, and as discussed above are novel.

By means of the ongoing simulation of an optimal processing of the jobs by the individual resources it is possible, according to the invention, to react quickly to an event by this event being immediately included into the steps towards determining the configuration for the optimal use of resources. The result of the new optimal resource configuration is available shortly after an event, a special

feature of the invention also being that it is possible to intervene in the processing processes of a resource and to deploy it with a new job if this means that a more favorable optimum can be achieved than by delaying until the job being completed by the selected resource is completed. These advantages cannot be achieved by the method set forth in Parad. Since Parad does not contain any indications which would suggest to one of ordinary skill in the art to develop an advantageous process corresponding to the subject matter of the present application, Parad's teaching does not place the invention into the hands of the public.

Reversal of the rejection of record is requested.

Respectfully submitted,



Ira J. Schultz  
Registration No. 28666

DENNISON, SCHEINER & SCHULTZ  
Suite 612  
1745 Jefferson Davis Highway  
Arlington, VA 22202-3417  
Tel: (703) 412-1155  
Fax: (703) 412-1161